

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF VERMONT

MYWEBGROCER, INC.)	
)	
Plaintiff and)	
Counterclaim Defendant)	
)	
v.)	Civil Action No. 5:16-cv-00310-gwc
)	
ADLIFE MARKETING &)	
COMMUNICATIONS CO., INC.)	
)	
Defendant and)	
Counterclaim Plaintiff)	
)	

DECLARATION OF MATTHEW S. BORICK, ESQ.

1. My name is Matthew S. Borick. I am over 18 years of age and I understand the obligations of an oath.
2. This declaration is based on my personal knowledge.
3. I am counsel for Plaintiff MyWebGrocer, Inc. in the above-captioned matter.
4. I make this declaration in support of (a) Plaintiff's Motion for Partial Summary Judgment on Liability for Copyright Infringement and (b) Plaintiff's Motion for Partial Summary Judgment on Damages for Copyright Infringement.
5. Attached hereto as **Exhibit 1** is a true and correct copy of relevant excerpts from the Deposition of Jeremiah Tarrant in this matter.
6. Attached hereto as **Exhibit 2** is a true and correct copy of a document produced by Defendant in this matter and represented by Defendant to be a true and correct copy of U.S. Copyright Registration No. VA 2-020-735.

7. Attached hereto as **Exhibit 3** is a true and correct copy of a relevant excerpt from a document produced by Defendant in this matter and represented by Defendant to be a true and correct copy of the deposit material for U.S. Copyright Registration No. VA 2-020-735.

8. Attached hereto as **Exhibit 4** is a true and correct copy of a March 24, 2000 purchase record from Multi-Ad Services.

9. Attached hereto as **Exhibit 5** is a true and correct copy of a document produced by Defendant in this matter and represented by Defendant to be a true and correct copy of U.S. Copyright Registration No. VA 2-019-921.

10. Attached hereto as **Exhibit 6** is a true and correct copy of a relevant excerpt from a document produced by Defendant in this matter and represented by Defendant to be a true and correct copy of the deposit material for U.S. Copyright Registration No. VA 2-019-921.

11. Attached hereto as **Exhibit 7** is a true and correct copy of a document produced by Defendant in this matter and represented by Defendant to be a true and correct copy of U.S. Copyright Registration No. VA 2-017-741.

12. Attached hereto as **Exhibit 8** is a true and correct copy of a relevant excerpt from a document produced by Defendant in this matter and represented by Defendant to be a true and correct copy of the deposit material for U.S. Copyright Registration No. VA 2-017-741.

13. Attached hereto as **Exhibit 9** is a true and correct copy of a document produced by Defendant in this matter and identified as a “photography license audit” pertaining to the “WrapTurkeyHam001” image.

14. Attached hereto as **Exhibit 10** is a true and correct copy of email correspondence between representatives from MyWebGrocer, Pennington Quality Market, and Media Minds.

15. Attached hereto as **Exhibit 11** is a true and correct copy of a document produced by Defendant in this matter and represented by Defendant to be a true and correct copy of U.S. Copyright Registration No. VA 2-022-602.

16. Attached hereto as **Exhibit 12** is a true and correct copy of a relevant excerpt from a document produced by Defendant in this matter and represented by Defendant to be a true and correct copy of the deposit material for U.S. Copyright Registration No. VA 2-022-602.

17. Attached hereto as **Exhibit 13** is a true and correct copy of an excerpt from MyWebGrocer's master services agreement with Piggly Wiggly.

18. Attached hereto as **Exhibit 14** is a true and correct copy of a document produced by Defendant in this matter and identified as the "PreparedFoodPhotos.com Subscriber Listing."

19. Attached hereto as **Exhibit 15** is a true and correct copy of a print-out of a webpage accessed at <https://preparedfoodphotos.com/Food-Stock-Photography/22768/Three-Loose-Mangos.html> (last accessed on Feb. 22, 2019).

20. Attached hereto as **Exhibit 16** is a true and correct copy of a document produced by Defendant in this matter and represented by Defendant to be a true and correct copy of U.S. Copyright Registration No. VA 2-047-017.

21. Attached hereto as **Exhibit 17** is a true and correct copy of a relevant excerpt from a document produced by Defendant in this matter and represented by Defendant to be a true and correct copy of the deposit material for U.S. Copyright Registration No. 2-047-017.

22. Attached hereto as **Exhibit 18** is a true and correct copy of an excerpt from MyWebGrocer's master services agreement with Key Food.

23. Attached hereto as **Exhibit 19** is a true and correct copy of a document produced by Defendant in this matter and represented by Defendant to be a true and correct copy of U.S. Copyright Registration No. VA 2-012-581.

24. Attached hereto as **Exhibit 20** is a true and correct copy of a relevant excerpt from a document produced by Defendant in this matter and represented by Defendant to be a true and correct copy of the deposit material for U.S. Copyright Registration No. VA 2-012-581.

25. Attached hereto as **Exhibit 21** is a true and correct copy of email correspondence between representatives from MyWebGrocer and iStock.

26. Attached hereto as **Exhibit 22** is a true and correct copy of a relevant excerpt from MyWebGrocer's download history from iStock.

27. Attached hereto as **Exhibit 23** is a true and correct copy of a 2009 license form furnished by iStock.

28. Attached hereto as **Exhibit 24** is a true and correct copy of a relevant excerpt from MyWebGrocer's download history from iStock.

29. Attached hereto as **Exhibit 25** is a true and correct copy of a 2007 license form furnished by iStock.

30. Attached hereto as **Exhibit 26** is a true and correct copy of relevant excerpts from Defendant's Response to MyWebGrocer's Second Set of Interrogatories and Document Requests (Set One).

31. Attached hereto as **Exhibit 27** is a true and correct copy of relevant excerpts from Defendant's April 2, 2018 response to MyWebGrocer's meet-and-confer letter, which response reflects Defendant's supplemental response to MyWebGrocer's Interrogatory No. 1.

32. Attached hereto as **Exhibit 28** is a true and correct copy of relevant excerpts from Defendant's Responses to MyWebGrocer's Requests for Production (Set Three).

33. Attached hereto as **Exhibit 29** is a true and correct copy of relevant excerpts from the Deposition of Joel Albrizio in this matter.

34. Attached hereto as **Exhibit 30** is a true and correct copy of the Complaint in an action styled Albrizio v. Puccio, Civil Action No: 10-2845-BLS1, 2010 WL 8112586 (Mass. Super. Ct. Jul. 16, 2010).

35. Attached hereto as **Exhibit 31** is a true and correct copy of a Memorandum of Decision and Order in Albrizio v. Puccio, reported at 28 Mass. L. Rptr. 298, 2011 WL 1771077, (Mass. Super. Ct. Apr. 11, 2011).

36. Attached hereto as **Exhibit 32** is a true and correct copy of a print-out of a webpage accessed at <https://radaris.com/~Joel-Albrizio/1204080499> (last accessed on Feb. 22, 2019).

37. Attached hereto as **Exhibit 33** is a true and correct copy of Exhibit 2 to the June 21, 2018 deposition of Joel Albrizio in this matter.

38. Attached hereto as **Exhibit 34** is a true and correct copy of a print-out of a webpage accessed at <https://www.linkedin.com/in/joelalbrizio> (last accessed on Aug. 27, 2018).

39. Attached hereto as **Exhibit 35** is a true and correct copy of a document produced by Defendant in this matter and represented by Defendant to be a true and correct copy of U.S. Copyright Registration No. VA 2-014-708.

40. Attached hereto as **Exhibit 36** is a true and correct copy of a relevant excerpt from a document produced by Defendant in this matter and represented by Defendant to be a true and correct copy of the deposit material for U.S. Copyright Registration No. 2-014-708.

41. Attached hereto as **Exhibit 37** is a true and correct copy of a print-out of a webpage accessed at <https://www.beefitswhatsfordinner.com/marketing-resources/beef-promotion-assets> (last accessed on Feb. 22, 2019).

42. Attached hereto as **Exhibit 38** is a true and correct copy of a document produced by Defendant in this action entitled “Adlife Digital Food Photography Distributor Agreement.”

43. Attached hereto as **Exhibit 39** is a true and correct copy of email correspondence between representatives from MyWebGrocer and Multi-Ad Services.

44. Attached hereto as **Exhibit 40** is a true and correct copy of a print-out of a webpage accessed at <https://www.istockphoto.com/faq/purchasing> (last accessed on Feb. 22, 2019).

45. Attached hereto as **Exhibit 41** is a true and correct copy of a print-out of a webpage accessed at <https://www.istockphoto.com/plans-and-pricing> (last accessed on Feb. 22, 2019).

46. Attached hereto as **Exhibit 42** is a true and correct copy of a print-out of a webpage accessed at <http://www.preparedfoodphotos.com/> (last accessed on Feb. 22, 2019).

47. Attached hereto as **Exhibit 43** is a true and correct copy of a print-out of a webpage accessed at

<https://preparedfoodphotos.com/terms.of.use.php> (last accessed on Feb. 22, 2019).

I declare under penalty of perjury that the foregoing is true and correct. Executed on February 22, 2019.

/s/ Matthew S. Borick
Matthew S. Borick